

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	CASE NO.
)	
RICHARD C. JARAMILLO and BEVERLY M.)	
JARAMILLO,)	
)	
Defendants, and)	
)	
MSG - THE MORTGAGE SPECIALIST)	
GROUP, LLC)	
)	
Defendant, (who may claim)	
an interest in the realty)	
sought to be foreclosed).)	

UNITED STATES OF AMERICA'S COMPLAINT

For its Complaint, which has been authorized and requested by a duly authorized delegate of the Secretary of the Treasury of the United States of America and directed on behalf of the Attorney General of the United States of America pursuant to 26 U.S.C. Sections 7401 and 7403, the United States of America alleges and avers as follows.

NATURE OF ACTION

1. This is a civil action brought by the United States of America pursuant to Sections 7401, 7402 and 7403 of the Internal Revenue Code of 1986, as amended (26 U.S.C.) ("the Code"), requesting a judgment against Defendants, Richard C. Jaramillo and Beverly M. Jaramillo, for the unpaid balance of certain federal taxes, plus statutory additions, and to enforce tax liens of the United States.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 26 U.S.C. Sections 7402 and 7403 of the Code and 28 U.S.C. Sections 1340 and 1345.

3. Venue of this action properly lies in this district pursuant to 28 U.S.C. Sections 1391(b) and 1396.

THE PARTIES

4. Plaintiff is the United States of America.

5. Defendant, Richard C. Jaramillo , is the taxpayer in this action and can be served in Dallas, Texas.

6. Defendant and wife of taxpayer, Beverly M. Jaramillo, is the taxpayer in this action and may claim a homestead interest in the property at issue. Beverly M. Jaramillo can be served in Dallas, Texas.

7. Defendant, MSG - The Mortgage Specialist Group, LLC is a party to this litigation because it may hold a purchase money lien on the residence and may therefore claim an interest in the property at issue. MSG - The Mortgage Specialist Group, LLC can be served at 2020 W. Northwest Hwy., Suite 112, Grapevine, Texas, 76051.

THE TAX LIABILITY

8. A delegate of the Secretary of the Treasury assessed against, and gave notice and demand to, Richard C. Jaramillo for unpaid income tax, penalties, statutory additions, and interest for the years 2002-2004 and trust fund recovery penalties pursuant to § 6672, statutory additions and interest for the 2nd and 3rd quarters of 2004. The table below shows the tax year, the assessment date, and the totals by year.

TYPE OF TAX	TAX PERIOD	DATE OF ASSESSMENT	AMOUNT DUE THROUGH FEBRUARY 27, 2009
1040	2002	02/28/2005	\$42,472.53
1040	2003	02/20/2006	\$5,097.31
1040	2004	11/21/2005	\$21,360.13
§ 6672	6/30/2004	06/20/2005	\$30,626.96
§ 6672	9/30/2004	06/20/2005	\$47,208.36
TOTAL			\$146,765.29

9. A delegate of the Secretary of the Treasury assessed against, and gave notice and demand to, Beverly M. Jaramillo for unpaid income tax, penalties, statutory additions, and interest for the years 2002-2004. The table below shows the tax year, the assessment date, and the totals by year.

TYPE OF TAX	TAX PERIOD	DATE OF ASSESSMENT	AMOUNT DUE THROUGH FEBRUARY 27, 2009
1040	2002	02/28/2005	\$42,427.26
1040	2003	02/20/2006	\$2,313.01
1040	2004	11/21/2005	\$21,360.13
TOTAL			\$66,100.40

10. Proper notice of and demand for payment of the assessments referred to in paragraphs 8 and 9 above was mailed to Richard C. Jaramillo and Beverly M. Jaramillo on or about the date of the assessments.

11. On August 30, 2005, the United States recorded a Notice of Federal Tax Lien against Richard C. Jaramillo in the real property records of Dallas County, Texas for the 2002 income tax year and the trust fund recovery penalty for the 2nd and 3rd quarters of 2004. On March 7, 2006, the United States recorded a Notice of Federal Tax Lien against Richard C. Jaramillo and Beverly M.

Jaramillo in the real property records of Dallas County, Texas for the 2003 income tax year. On December 8, 2005, the United States recorded a Notice of Federal Tax Lien against Richard C. Jaramillo and Beverly M. Jaramillo in the real property records of Dallas County, Texas for the 2004 income tax year.

THE SUBJECT PROPERTY

12. Defendants, Richard C. Jaramillo and Beverly M. Jaramillo, are the owners of certain real property located at 4418 Crooked Lane, Dallas, Texas 75229 and further described as follows:

Being Lot 2, Block B/6400 of NORTHAVEN MANOR, an Addition to the City of DALLAS, DALLAS County, Texas, according to the Plat thereof recorded in Volume 27, Page 211, Map Records, DALLAS County, Texas..

13. Defendant, Beverly M. Jaramillo, as wife of Richard C. Jaramillo, may claim a homestead interest in the property.

COUNT I

(Judgment for Unpaid Tax Assessments)

14. A delegate of the United States Secretary of the Treasury made assessments against Richard C. Jaramillo and Beverly M. Jaramillo for the unpaid income taxes, penalties, statutory interest and additions to tax for the periods and amounts referenced in paragraphs 8 and 9 above.

15. Despite timely notice and demand for payment, Richard C. Jaramillo and Beverly M. Jaramillo have neglected, failed and refused to pay the income tax and penalty assessments for tax years 2002-2004 and trust fund recovery penalty assessments for the 2nd and 3rd quarters of 2004 described in paragraphs 8 and 9 above.

COUNT II

(Foreclose Federal Tax Liens)

16. The United States is seeking the enforcement of its federal tax liens against the property described above to pay the unpaid income tax liabilities, penalties and interest of Richard C. Jaramillo and Beverly M. Jaramillo.

17. Pursuant to Section 6321 of the Code, a federal tax lien attached to Richard C. Jaramillo's and Beverly M. Jaramillo's interest in the property upon the assessments of the taxes indicated in paragraphs 8 and 9 above.

18. Richard C. Jaramillo and Beverly M. Jaramillo have been debtors of the United States for the above-mentioned taxes since the dates of the assessments as set forth in paragraphs 8 and 9 above.

COUNT III

(Ten Percent Surcharge for Costs of Collection)

19. 28 U.S.C. section 3011 authorizes the United States to recover a surcharge of 10% of the amount of the debt in the event that the United States avails itself of the pre-judgment or post judgment relief as set forth in Subchapter B or C of the Federal Debt Collection Procedure Act, 28 U.S.C. §§3001 *et. seq.*, in order to cover the cost of processing and handling the litigation and enforcement under this chapter of the claim for such debt.

FOR THESE REASONS, the United States requests the Court,

A. Adjudge that Richard C. Jaramillo is indebted to the United States in the amount of \$146,765.29 as of February 27, 2009, plus penalties, statutory additions and interest from that date, less any payments received.

B. Adjudge that Beverly M. Jaramillo is indebted to the United States in the amount of \$66,100.40 as of February 27, 2009, plus penalties, statutory additions and interest from that date, less any payments received.

C. Adjudge that the property described above is subject to the lien of the United States;

D. Determine the validity of the claims of the defendants named herein against the property and also determine the priority of all respective claims as against the claim of the United States;

E. Adjudge that the United States has a valid lien against the property, that said lien be foreclosed and the property be sold in accordance with the law and practice of this Court, and that the proceeds of such sale be distributed in accordance with the findings of the Court and the rights of the parties;

F. Order that the United States is entitled to the 10% litigation surcharge set forth in 28 U.S.C. Section 3011; and,

G. Order that the United States have such further relief as this Court may deem just and proper, including its costs herein.

JAMES T. JACKS
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/s/ Michelle C. Johns

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